

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ROBERT W. TESSEN,

Plaintiff,

v.

ORDER

10-cv-104-wmc

STEVE HELGERSON, NANCY HAHNISCH,
DARCI BURRESON, JENNIFER NICKEL,
NATALIE NEWMAN and KIM CAMPBELL,

Defendants.

Judgment was entered on September 8, 2011, granting defendants' motion for summary judgment and dismissing this case. Now plaintiff Robert Tessen has filed a notice of appeal, a request for a certificate of appealability, and a request for leave to proceed on appeal *in forma pauperis*.

Tessen's request for leave to proceed *in forma pauperis* on appeal is governed by the 1996 Prison Litigation Reform Act. This means that the court must determine first whether his request must be denied either because (1) he has three strikes against him under 28 U.S.C. § 1915(g) or (2) the appeal is not taken in good faith. Tessen does not have three strikes against him and the court is unable to certify that the appeal is not taken in good faith. Moreover, a certificate of appealability is necessary only for appeals of decisions in 28 U.S.C. § 2254 or 28 U.S.C. § 2255 decisions.

Accordingly, the only other hurdle to Tessen's proceeding with his appeal *in forma pauperis* is the requirement that he make an initial partial payment of the filing fee that has been calculated from a certified copy of his trust fund account statement for the six-month period immediately preceding the filing of his notice of appeal. 28 U.S.C. § 1915(a)(2).

Tessen has not submitted the necessary trust fund account statement. Until he does so, the court cannot determine whether he is indigent and, if he is, the amount of his initial partial payment.

Accordingly, IT IS ORDERED that Tessen may have until October 26, 2011, in which to submit a certified copy of his trust fund account statement for the six-month period from approximately March 20, 2011 to approximately September 20, 2011. If, Tessen fails to submit the required trust account statement or show cause for his failure to do so on or before October 26th, then the court will deny his request for leave to proceed *in forma pauperis* on the ground that he has failed to show that he is entitled to indigent status on appeal.

Entered this 23rd day of September, 2011.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge